

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.135/1/Add.6
16 May 1968

ENGLISH

ORIGINAL: ENGLISH/FRENCH



AD HOC COMMITTEE TO STUDY THE PEACEFUL
USES OF THE SEA-BED AND THE OCEAN
FLOOR BEYOND THE LIMITS OF NATIONAL
JURISDICTION

NOTE BY THE SECRETARY-GENERAL

1. In addition to the replies of Member Governments under operative paragraph 3 (a) of General Assembly resolution 2340 (XXII), communicated to the Ad Hoc Committee in documents A/AC.135/1 and Add.1, 2, 3, 4 and 5, the Secretary-General has now received replies from the Governments of Finland and France.
2. The substantive parts of these replies are reproduced in the present document, in the order in which they were received, for the information of members of the Committee.

FINLAND

/Original: English/
10 May 1968

The Government of Finland considers that the principles of freedom of the high seas, set forth in the 1958 Geneva Convention on the high seas, can also be related to the ocean floor and that the prohibition of occupation contained in these principles refers also to attempts to subject any part of the above-mentioned ocean floor for national purposes.

The recognition of freedom of the high seas is connected with the origins of the principles of modern international law. Corresponding principles have been adopted and developed in present legislation in the field of outer space and foreign celestial bodies. These principles can be compared with those constituting a basis for the 1959 Convention on the Antarctic.

The Government of Finland wishes to emphasize that it does not accept the exploitation of the ocean floor for military purposes in any form. Thus would, inter alia, the principle of freedom of the high seas lose its practical significance.

The Government of Finland seconds the view, expressed during the deliberations on the matter, that the resources of the ocean floor and the subsoil thereof should be exploited in accordance with the United Nations principles and purposes for the common benefit of all mankind. Such a use presupposes, of course, a more comprehensive and specific legal system than the existing one. The 1958 Geneva Conventions on the high seas and their living resources do not solve these problems. The suggestion of the Government of Malta, providing the elaboration of a special Convention on the exploitation of the ocean floor, can be considered well-founded. When such a convention will be elaborated special attention should be paid to the following matters:

1. The legal principles of the actual exploitation of the non-biological resources of world oceans should cover that part of the high seas which, on the basis of existing laws, is not subject to the sovereignty of coastal States. The legal arrangement of the exploitation of the ocean floor can necessitate a more precise determination of the scope of the sovereignty of coastal States. This

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question has practical meaning only in the case that there has been no need to specify its boundary with the continental shelf of adjacent States and that its limits thus depend on the quite vague provisions contained in article 1 of the Convention on the Continental Shelf.

2. Because the above-mentioned principle, according to which the ocean floor should not be subject to a permanent sovereignty of States, can frustrate the plan to exploit the ocean floor as efficiently as possible for the benefit of all mankind attempts should be made to make such a use possible and profitable from the undertakers' point of view. If the exploitation, such as mining e.g., requires a permanent occupation of a certain area, this should be carried out, on the basis of international arrangements, in such a way that the enterprise would be guaranteed continuous exploitation possibilities and other prerequisites of a profitable activity. If such an activity could be carried out within the framework of an international concession system, and the licensee would be charged to give a part of the profit to the United Nations, this would favour the purposes referred to in the proposal made by Malta at the twenty-second session of the United Nations General Assembly.

3. Besides the arrangement of exploitation of ocean floor resources, it would also be important to work out in this connexion, how the protection of the said areas by means of international supervision and co-operation could be organized. The provisions contained in articles 24 and 25 of the Geneva Convention on the high seas concerning the prevention of pollution of the seas, are apparently too general in many regards. It is to be regretted that provisions of article 25 of the Convention, concerning radioactive waste disposal into the sea have not yet been implemented.

(For its own part, the Government of Finland has tried to follow the recommendations contained in articles 24 and 25 of the said Convention. According to the 1965 law on the prevention of pollution of the sea, it is not permitted to drop or dispose waste or other substances into the sea from Finnish territory or Finnish vessels, when such a measure may cause, among other things, pollution of the high seas. It is especially prohibited to drop into the sea unprocessed irradiated radioactive nuclear fuel and radioactive waste produced during the first phase of the chemical separation of fission products. No other radioactive

material may be dropped into the sea in such a way that it may cause injury or danger to men, environment or living resources of the sea. According to the said Finnish law, radioactive material packed in a container or in solid form should not be placed in the sea, if the depth does not exceed 200 metres.)

4. The Government of Finland considers equally important to settle the economical exploitation of the ocean floor without causing any essential harm to such uses of the high seas as maritime traffic and ocean fishing which are secured by freedom of the high seas.

5. It has been proposed to establish a special international body for international exploitation of the ocean floor. Several United Nations specialized agencies and their subsidiary bodies, already at present, are concerned with the study and exploitation of the areas in question. Co-ordination of the activity of organizations dealing with these matters ought to be taken into account when an international convention will be elaborated. The establishment of a new special administrative organization should be carefully considered.

FRANCE

/Original: French/
13 May 1968

In the light of the comments of a number of other Governments and the discussions which took place at the Ad Hoc Committee's first session, the Government of France feels that the following preliminary observations are called for:

1. We consider it necessary to point out that, under the terms of resolution 2340 (XXII), the Ad Hoc Committee's task consists mainly in enumerating the problems which must be dealt with and the possible solutions. Where appropriate, the Committee would indicate the advantages and disadvantages of the various solutions without, however, taking any position on them.

2. One of the most urgent problems is to determine to what parts of the oceans resolution 2340 (XXII) applies.

As has been noted by a number of Governments, the economic problems connected with the exploitation of the sea-bed make it imperative, first of all, to determine

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precisely the limits of the continental shelf. Although not a necessary condition to the initiation of discussions, a definition of this kind becomes necessary from the time that different legal principles must be applied to the continental shelf and the sea-bed. It is likewise probable that the legal principles applicable to the sea-bed of closed seas will not be the same as those applying to the sea-bed of open seas and the oceans.

3. Regardless of what the solution finally adopted might be, the need for safety regulations governing sea-bed research and exploration should be stressed, for if the new activities are not regulated, they are apt to encroach upon the traditional activities of the sea such as navigation and fishing.

4. After considering the report to be submitted to it by the Ad Hoc Committee, the United Nations General Assembly will likely be called upon to decide how the task which has been begun is to be continued. The French Government would be willing to agree to the establishment of a standing committee of the United Nations, along the lines of the Committee on the Peaceful Uses of Outer Space, which would ensure a degree of co-ordination between the international bodies concerned with the problems of the oceans. This committee would be a "co-ordinating committee" composed of representatives of Member States and provided with secretariat services through the present facilities of the United Nations Secretariat. Two sub-committees could be set up, one of which would be an administrative and legal committee, and the other an economic committee. The purely scientific questions would be referred to the Inter-Governmental Oceanographic Commission of UNESCO.
